

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)
47524/P124US/10108968

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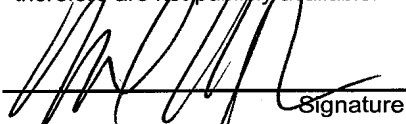
3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature

October 31, 2007

Date

Michael A. Papalas

Typed or printed name

40,381

Registration Number, if applicable

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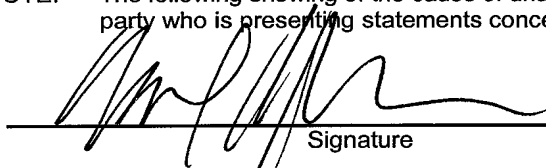
Telephone Number

Enclosure

- ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unavoidable delay
- ☒ Declaration of Scott Matthews, Affidavit of Barbara Dalbey,
Copy of Notice of Allowance and Fee(s) with docketing stamp

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NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



Signature

October 31, 2007

Date

Michael A. Papalas

Typed or printed name

40,381

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

The above-identified application became abandoned for failure to timely pay the issue fee. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained. Applicant hereby petitions the Commissioner for revival of the above-identified application for patent.

The last communication received from the U.S. Patent and Trademark Office in this application was an Office Action mailed on 7 February 2007. A Response to that Office Action was electronically sent to the Commissioner for Patents on 30 April 2007.

A Notice of Allowance was apparently mailed on 19 July 2007. However, this Action was never received by Applicant's Attorney. Applicant's Attorney recently reviewed the status of this application during a routing review of pending applications and discovered the abandoned status. Specifically, Scott Matthews discovered the Notice of Allowance through the USPTO's PAIR system on 25 October 2007.

Barbara Dalbey has provided an Affidavit indicating that Applicant's Attorney never received the Notice of Allowance. Scott Matthews has provided a Declaration describing the facts surrounding his discovery of the Notice of Allowance.

Applicant believes that the above facts, as sworn to in the accompanying declaration and affidavit, provide an adequate showing of the cause of the abandonment was unavoidable, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable. Applicant respectfully requests revival of the present application.

The Declaration of Scott Matthews of the law firm of Fulbright & Jaworski L.L.P. is being filed concurrently herewith in support of Applicant's Petition. The Affidavit of Barbara Dalbey is being filed concurrently herewith in support of Applicant's Petition.

The reasons for the unavoidable delay, as fully set forth herein and in the accompanying documents provide adequate basis for the revival of the present application.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to Deposit Account No. 06-2380, under Order No. 47524-P124US-10108968.

(Please attach additional sheets if additional space is needed)